

Application No. 09/971,716
Amendment dated September 8, 2003
Reply to Office Action of June 6, 2003

REMARKS

Claims 1-30 are pending in the application; the status of the claims is as follows:

Claims 7-12, 17, 18 and 24-29 are withdrawn from consideration.

Claims 4, 15, 21, and 30 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claims 13, 14 and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,095,314 to Fortenbery ("Fortenbery").

Claims 30 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,516,940 B1 to Hart et al ("Hart").

Claims 1-3, 5, 6, 19, 20, 22 and 23 are allowed.

To date, no Notice of Draftsperson's Patent Drawing Review has been received. Applicant respectfully requests receipt of this document when it becomes available. Please note that the original drawings filed in the patent application are "formal" drawings.

Claims 13 and 30 have been amended to more particularly point out and distinctly claim the invention. Claims 15-18 and 20 have been amended to correct antecedent basis; these changes are not necessitated by the prior art, and are unrelated to the patentability of the invention over the prior art. No new matter has been added.

The allowance of claims 1-3, 5, 6, 19, 20, 22 and 23, by the Examiner, is noted with appreciation.

35 U.S.C. § 112 Rejection

The rejection of claims 4, 15, 21 and 30 under the first paragraph of 35 U.S.C. § 112 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, is respectfully traversed based on the following.

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A disclosure is enabling if one skilled in the art can practice the claimed invention without undue experimentation. MPEP §2164.01. The primary material discussed in the written description is UHMW polyethylene. Treating this material to provide antistatic properties is well known in the industry. Applicant's attorney conducted a search using the Yahoo! website (www.yahoo.com) using the terms "UHMW" and "antistatic." The search returned dozens of companies providing UHMW with antistatic properties or antistatic treatments for UHMW. One example is provided by *Lehigh Plastics Inc.* (<http://www.lehighvalleyplastics.com/uwmw.htm>). This link shows that Lehigh plastics provides two UHMW materials having antistatic properties. Applicant respectfully submits that one skilled in the art could readily determine a material having antistatic properties for use with the invention as claimed in claims 4, 15, 21 and 30 without undue experimentation.

Accordingly, it is respectfully requested that the rejection of claims 4, 15, 21 and 30 under the first paragraph of 35 U.S.C. § 112 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, be reconsidered and withdrawn.

35 U.S.C. § 102(b) and (e) Rejections

The rejection of claims 13, 14 and 16 under 35 U.S.C. § 102(b) as being anticipated by Fortenberry, is respectfully traversed based on the following.

Fortenberry shows a multi-cell discharge chute system where a diverter chute 20 diverts material into one of a plurality of chutes 13, 14 or 15. The material is dumped from a tiltable conveyor cart 18 and is directed via one of the chutes to a corresponding one of hoppers 13, 14 or 15. The material is moved by gravity.

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In contrast to the cited references, claim 13 includes:

a driving unit for generating a conveying motion, the conveying motion providing movement of the conveying member along an axis, wherein the driving unit is capable of producing a conveying motion in the conveying member to advance materials along the conveying member in the conveying direction and wherein the conveying member consists primarily of a material having friction resistant properties.

The cited references do not show or suggest a driving unit that provides a conveying motion by providing movement along an axis. To anticipate, a reference must show every limitation of a claim. MPEP §2131. Therefore, the cited references do not anticipate claim 13. Claims 14-16 are dependent upon claim 13 and include every limitation of claim 13. Therefore, claims 14 and 16 are also not anticipated by the cited references.

Accordingly, it is respectfully requested that the rejection of claims 13, 14 and 16 under 35 U.S.C. § 102(b) as being anticipated by Fortenberry, be reconsidered and withdrawn.

The rejection of claim 30 under 35 U.S.C. § 102(e) as being anticipated by Hart, is respectfully traversed based on the following.

Hart shows a roller type conveyor 20 having a plurality of slippable rollers 30 in electrical communication with ground to prevent static discharge. The rollers convey materials via a rotating motion imparted by drive shaft 75 through drive belt 70 and pulleys 65.

In contrast to the cited references, claim 30 includes:

producing a conveying motion in the conveying member along an axis to advance the materials along the conveying member in the conveying direction.

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Hart provides movement of materials by providing a rotating motion to rollers 30. The cited references do not show or suggest providing a conveying motion along an axis. Therefore, the cited references do not anticipate claim 30.

Accordingly, it is respectfully requested that the rejection of claim 30 under 35 U.S.C. § 102(b) as being anticipated by Hart, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260.

Any fee required by this document other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

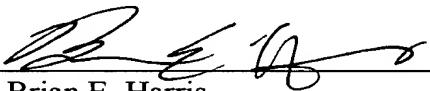
If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

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and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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